Dated: November 20, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 95–29098 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–03–P

[BPD–820–N]

RIN 0938–AG93

Medicare Program; Notice Containing the Statement Drafted by the Committee Established to Negotiate the Wage Index to be Used to Adjust Hospice Payment Rates Under Medicare

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice provides the statement signed on April 13, 1995, by the Negotiating Committee on the Hospice Wage Index, concerning the index to be used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages. The statement represents a consensus by the committee members, who represent different interests affected by the hospice rules.

The notice also announces that a proposed rule establishing the revised hospice wage index, with a description of the methodology used to calculate the index, will be published in the spring of 1996. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983.

FOR FURTHER INFORMATION CONTACT: Jennifer Carter (410) 786–4615.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1814(i) of the Social Security Act (the Act) provides for payment to Medicare hospices. Regulations for Medicare hospice care services (42 CFR part 418) were published in the Federal Register on December 16, 1983 (48 FR 56008), effective for hospice services furnished on or after November 1, 1983. These regulations provide for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of the hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Under § 418.306(c), we adjust the payment rates to reflect local differences in area wage levels.

The wage index currently used to adjust the hospice payment rates is the wage index published in the Federal Register on September 1, 1983 (48 FR 39871) for purposes of determining Medicare inpatient hospital prospective payment rates. This hospital wage index was based on calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, Wages and Contributions file for hospital workers.

Although Medicare hospice payment rates have been periodically updated since the inception of the Medicare hospice program in late 1982, we have never updated the wage index for hospices. Thus, the wage index developed based on 1981 BLS data is still used for hospices, even though HCFA now uses its own wage data surveys to construct an updated, more accurate hospital wage index. Previous attempts to begin to develop an updated wage index for hospices through rulemaking brought to our attention the divergent views within the hospice industry itself and between the industry and HCFA on how best to update the index. During discussions preliminary to developing a new wage index, the industry voiced concerns over the adverse financial impact of a new wage index on individual hospices and a possible reduction in overall Medicare hospice care payments, the effect of overarching Federal budgetary constraints. The result was that, in the absence of agreement, we continued to use a wage index that is clearly obsolete for geographically adjusting Medicare hospice payments.

II. Negotiated Rulemaking Process

In accordance with the Negotiated Rulemaking Act of 1990, we embarked on the use of the negotiated rulemaking process to promulgate a proposed rule specifying the wage index to be used to adjust payment rates for hospice services under Medicare. Our goal was to achieve the objectives associated with the use of the negotiated rulemaking process—reducing the time, cost, and other problems associated with the traditional rulemaking process.

To determine who should participate on the negotiating committee, a neutral facilitator selected by the Department of Health and Human Services conducted a convening process to ensure the presence on the committee of all interests affected by changes in the wage index. The intent was to establish a negotiating committee that represented all interests, although not necessarily all interested parties. The two national hospice organizations, the National Hospice Organization and Hospice Association of America, were also contacted by the facilitator for their recommendations. The facilitator then interviewed a number of representatives in the hospice community to determine who would best represent different interests on the committee. The facilitator proposed, and we accepted, the following individuals as negotiation participants. We believe these individuals represent an appropriate mix of interests and backgrounds:

Donna Bales, Kansas Hospice Association
Mary Ellen Bliss, American Association of Retired Persons
Janice Casey, Hospice Care, Inc.
Kate Colburn, Hospice of Central Iowa
Randall DuFour, Hospice of Louisville, Kentucky
Thomas Hoyer, Bureau of Policy Development, HCFA
Mary Labiak, Hospice of the Florida Suncoast, Florida
John J. Mahoney, National Hospice Organization
Janet Neigh, Hospice Association of America
Dale C. Smith, Academy of Hospice Physicians
Mark Sterling, VITAS Healthcare
Claire Tehan, Hospital Home Health Care Agency of California

With the assistance of the facilitator, we reached consensus with hospice industry groups and other affected interests on how best to propose an update to the present outdated hospice wage index. We believed a new wage index based on consensus would be less controversial and easier to administer than one developed by the traditional rulemaking process.

The committee held five public meetings beginning in November 1994 and ending in April 1995. In accordance with the Federal Advisory Committee Act, each meeting of the negotiating committee was announced in the Federal Register, at least 15 days before the meeting. The meeting notices indicated that the meetings were open to the public and that time was set aside at the end of each meeting day to hear any public statements.

On April 13, 1995, the committee reached consensus on an option for the proposed wage index. Reaching consensus was a long and deliberative process. The committee stressed that consensus meant that even if elements of the agreement were not the choice of individual committee members, all committee members could live with the agreement, considered as a whole. The committee concurred that a wage index based on the committee's

recommendations would be preferable to a wage index that could be developed by the traditional rulemaking process, both for the hospice community as a whole, and for the Medicare beneficiaries it serves. The proposed rule announcing the revised hospice wage index, including a description of the methodology used to calculate the index, will be published in the spring of 1996. The Committee Statement signed by all committee members is reprinted below.

United States Department of Health and Human Services Negotiating Committee on the Medicare Hospice Wage Index

Committee Statement

April 13, 1995.

The Negotiating Committee on Medicare Hospice Wage Index has concurred in the following recommendations, considered as a whole, concerning the wage index used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages:

A. Data to be Used

The wage index for hospices will be based on the wage index used by the Health Care Financing Administration (HCFA) for hospitals under the Medicare Prospective Payment System, prior to reclassification. This means that the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(b) and 1886(d)(10) of the Social Security Act.

The hospital wage index prior to reclassification will be referred to in this statement as the Raw Index and will be adjusted as provided below to calculate what will be referred to as the Revised Wage Index.

Special provisions governing a transition period are described in paragraph D below.

B. Budget Neutrality

HCFA will determine a Budget Neutrality Factor that will be applied to achieve neutrality during and after the transition period. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the Revised Wage Index will equal estimated payments that would have been made for the same services if the wage index adopted for hospices in 1983 (1983 Index) had remained in effect. HCFA will estimate aggregate payments for Medicare hospice services using the best available utilization data.

C. Adjustments

Each Raw Index value will be adjusted in one of two ways to determine the Revised Wage Index value applicable to each area.

(1) If the Raw Index value for any area is 0.8 or greater, the Revised Wage Index will be calculated by multiplying the Raw Index value for that area by the Budget Neutrality Factor.

(2) If the Raw Index value for any area is less than 0.8, the Revised Wage Index will be the greater of either:

(a) The Raw Index value for that area multiplied by the Budget Neutrality Factor; or

(b) The Raw Index value for that area multiplied by 1.15 (in effect, a 15-percent increase), but subject to a maximum index value of 0.8.

D. Transition Period

The Revised Wage Index will be implemented over a 3-year transition period beginning on or about October 1, 1996. For the first year of the transition period, a blended index will be calculated by adding two-thirds of each 1983 index value for an area to one-third of the Revised Wage Index value for that area. During the second year of the transition period, the calculation will be similar, except that the blend will be one-third of the 1983 Index values and two-thirds of the Revised Wage Index values. During the third year the Revised Wage Index will be fully implemented.

Throughout the transition period, new hospices will be treated the same as existing hospices based in the same county.

E. Annual Updates

The Revised Wage Index will be updated annually, so that it is based on the most current available data used by HCFA to construct the hospital wage index, as well as on changes by the Office of Management and Budget to Metropolitan Statistical Areas as adopted by HCFA in calculating the hospital wage index.

HCFA will use the most current hospital cost report data available that allows HCFA to publish a proposed rule containing wage index values at least 4 months in advance of the effective date of each annual update to the Revised Wage Index.

F. Effective Date

The effective date of a final rule revising the wage index as stated above should be October 1, 1996.

G. Statement to Accompany Proposed and Final Hospice Wage Index Notice

The proposed rule is based upon a Committee Statement developed by a Negotiating Committee on the Medicare hospice wage index which was convened under the Negotiated Rulemaking Act. A new hospice wage index is needed because the existing hospice wage index is based on a 1983 wage index using 1981 Bureau of Labor Statistics (BLS) data which is inaccurate and outdated.

The Committee reached consensus; however, this means only that all Committee members could ''live with'' the agreement, considered as a whole, even if elements of that agreement were not the preferred choice of individual Committee members. The Committee Statement reflects those issues upon which the Committee ultimately concurred, but does not address many issues that were considered by the Committee.

The Committee considered the appropriate data to be used to construct a wage index, the appropriateness of retaining a 0.8 floor, budget neutrality, and how to structure a transition to timely update the index yet ensure access to hospice care. In particular, the Committee considered the problems faced by hospices that would receive significant decreases under the new wage indices, rural hospices, hospices with low wage indices, and hospices that may have disproportionately high non-wage costs.

The Committee received extensive information from experts who appeared before the Committee and from the hospice community, and sought public input. While considerable data was reviewed, the Committee acknowledges that hospice data collection is maturing and encourages its continued development. In addition, while other issues were identified, the scope of the Committee's negotiations was limited by the Notice of Intent to Negotiate.

Given these constraints, and taking into account the differing and conflicting interests that would be significantly affected, the Committee sought to develop a wage index that would be as accurate, reliable, and equitable as possible, but would not threaten access to hospice care.

The Committee recognizes that hospice care is still not universally available. The Committee further recognizes that there may be geographic or other circumstances that inhibit the provision of hospice care. The Committee strongly requests that HCFA consider options to address these access problems.

Reaching consensus was a long and deliberative process. The Committee concurred that the wage index it recommends will be better both for the hospice community as a whole, and for the Medicare beneficiaries it serves, than a wage index developed by the traditional rulemaking process.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395(f)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 25, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29140 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Health and Human Services Department.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected